

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JOHN WILSON, on behalf of himself and all
others similarly situated,

Plaintiff,

v.

ANCESTRY.COM OPERATIONS INC., a
Virginia Corporation; ANCESTRY.COM INC.,
a Delaware Corporation; and
ANCESTRY.COM LLC, a Delaware limited
liability company,

Defendants.

Case No.: 2:22-cv-00861 EAS (KAJ)

Judge: Hon. Edmund A. Sargus

Magistrate Judge Kimberly A. Jolson

**DECLARATION OF JOHN BAUMANN IN SUPPORT OF ANCESTRY'S MOTION
FOR SUMMARY JUDGMENT**

Pursuant to 28 U.S.C. § 1746, I, John Baumann, declare as follows:

1. I am a Partner at the law firm of Quinn Emanuel Urquhart & Sullivan, LLP, counsel for defendants Ancestry.com Operations, Inc., Ancestry.com Inc., and Ancestry.com LLC (collectively, "Ancestry") in the above-entitled action. I make this declaration of personal, firsthand knowledge, and if called and sworn as a witness, I could and would testify competently thereto.

2. Attached as **Exhibit 1** is a true and correct copy of excerpts from the transcript of the deposition of John Wilson in this matter.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 8th of April 2024 at Manhattan Beach, California.

/s/ John W. Baumann

John W. Baumann

CERTIFICATE OF SERVICE

I certify that on April 8, 2024 a true and correct copy of the foregoing was electronically filed with the Clerk of the United States District Court of the Southern District of Ohio, using the CM/ECF system, which will send notification of such filing to all counsel of record at the email addresses that they have provided to the Court.

DATED April 8, 2024.

/s/ Jennifer A. L. Battle

Jennifer A. L. Battle

EXHIBIT 1

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

)
JOHN WILSON, on behalf of)
himself and all others)
similarly situated,)
)
Plaintiff,)
)
vs.) Case No.: 2:22-cv-00861 EAS (KAJ)
)
ANCESTRY.COM OPERATIONS INC.,)
a Virginia Corporation;)
ANCESTRY.COM INC., a Delaware)
Corporation; and ANCESTRY.COM)
LLC, a Delaware limited)
Liability company,)
)
Defendants.)
_____)

VIDEOTAPED REMOTE DEPOSITION OF JOHN WILSON
Deponent testifying from Malta, Ohio
Thursday, November 16, 2023
Volume I

Stenographically Reported By:
Melissa M. Villagran, RPR
CSR No. 12543
Job No. 6290055
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UNITED STATES DISTRICT COURT
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ANCESTRY.COM OPERATIONS INC.,)
a Virginia Corporation;)
ANCESTRY.COM INC., a Delaware)
Corporation; and ANCESTRY.COM)
LLC, a Delaware limited)
Liability company,)
)
Defendants.)

)
Videotaped remote deposition of JOHN WILSON,
Volume I, taken on behalf of Defendant with all
participants appearing remotely via videoconference
and the Deponent testifying from Malta, Ohio,
beginning at 1:32 p.m. and ending at 3:38 p.m. on
Thursday, November 16, 2023, before Melissa M.
Villagran, RPR, Certified Shorthand Reporter
No. 12543.

1 APPEARANCES:

2 ALL ATTENDEES APPEARING REMOTELY

3
4 For Plaintiff:

5 TURKE & STRAUSS

6 BY: SAMUEL J. STRAUSS

7 Attorney at Law

8 613 Williamson Street, Suite 201

9 Madison, Wisconsin 53703

10 608.237.1775

11 Sam@turkestrauss.com

12
13 For Defendant:

14 QUINN EMANUEL

15 BY: JACK BAUMANN

16 Attorney at Law

17 865 South Figueroa Street, 10th Floor

18 Los Angeles, California 90017

19 213.443.3000

20 Jackbaumann@quinnemanuel.com

21
22 Videographer:

23 Anthony Gulino

24
25
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1 BY MR. BAUMANN:

2 Q Sure.

3 Is there a particular use of your yearbook
4 records that you're challenging in this lawsuit?

5 A I don't want them to use any of my yearbook 01:51:20
6 records or information.

7 Q So in your view, your lawsuit is challenging
8 whether these yearbook records can exist on the
9 Internet in general; is that correct?

10 MR. STRAUSS: Object to the form of the 01:51:38
11 question.

12 You may answer it, Mr. Wilson.

13 THE DEPONENT: Correct. I don't want my
14 information on the Internet unless I put it there.

15 BY MR. BAUMANN: 01:51:46

16 Q So let's take a look -- and, I guess, aside
17 from the appearance of your yearbook records on
18 Ancestry's website, is there any other specific use
19 of the yearbook records that you are challenging in
20 this lawsuit? 01:52:13

21 MR. STRAUSS: Same objection.

22 You may answer, Mr. Wilson.

23 THE DEPONENT: Can you repeat that again I'm
24 sorry.

25 /// 01:52:19

1 BY MR. BAUMANN:

2 Q Sure.

3 So I think we covered that you're objecting
4 to having your yearbook records online?

5 A Correct. 01:52:31

6 Q And my follow-up question to that was, is
7 there any -- you know, beyond their mere existence
8 online, any specific use of the records that you are
9 challenging in this lawsuit?

10 A I don't want use of any of my records without 01:52:42
11 my permission.

12 Q And as you understand it, have your records
13 been -- been used in any way that your -- your
14 claims here are based on?

15 MR. STRAUSS: Object to the form of the 01:53:00
16 question.

17 You may answer it, Mr. Wilson.

18 THE DEPONENT: I mean, yes, from the
19 discovery. I mean, they were using my picture on
20 ads and trying to sell their website, and I'm not 01:53:09
21 all about that.

22 BY MR. BAUMANN:

23 Q So I want to take a look, Mr. Wilson -- and
24 you should be able to control your Exhibit Share.

25 And I want to look down at paragraph 5 of 01:53:22

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1 question.

2 You may answer it, Mr. Wilson.

3 THE DEPONENT: Correct.

4 BY MR. BAUMANN:

5 Q And do you know whether your name has ever 02:01:10
6 been searched on Ancestry's landing page?

7 A No, I would have no clue if it has been.

8 Q So as we sit here today, you wouldn't know
9 one way or the other whether your name or likeness
10 has ever been included in this first advertising 02:01:26
11 technique that you're challenging; is that right?

12 MR. STRAUSS: I object to the form of the
13 question.

14 You may answer it.

15 THE DEPONENT: Correct. 02:01:36

16 BY MR. BAUMANN:

17 Q Then I'm going to look down at paragraph 7.
18 And you can let me know once you're there?

19 A I'm here.

20 Q And in paragraph 7, you say in the second of 02:01:48
21 the three advertising techniques you're challenging,
22 Ancestry, quote, sends, quote, promotional e-mails
23 and on-site messages to users who have provided
24 their e-mail addresses to Ancestry, but have not yet
25 purchased a paid subscription plan. 02:02:05

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1 Do you see that?

2 A Yes.

3 Q Do you know whether your name or likeness has
4 ever been included in a promotional e-mail sent by
5 Ancestry? 02:02:20

6 A From the pictures I received, yes.

7 Q And is there a specific picture that you're
8 referencing when you say that you've seen your name
9 or likeness in a promotional e-mail sent by
10 Ancestry? 02:02:30

11 A It would be in paragraph 34, that picture
12 attached.

13 Q So if we go down to paragraph 34 of the
14 complaint, the image included there is what you
15 understand to be a promotional e-mail sent by 02:02:47
16 Ancestry; is that correct?

17 A Correct.

18 Q And if we look above that image in
19 paragraph 34 of your complaint, Mr. Wilson, the
20 description says (as read): 02:03:13

21 "Visitors who searched for
22 Mr. Wilson received in response four
23 records derived from Mr. Wilson's high
24 school yearbooks."

25 Do you see that? 02:03:23

1 A Yes.

2 Q And it says in a couple sentences thereafter
3 (as read):

4 "Ancestry displays a low-resolution
5 version of each photograph for free, 02:03:35
6 accompanied by promotional text
7 promising there's more to see about
8 Mr. Wilson if the user clicks 'Sign Up
9 Now.' "

10 Do you see that? 02:03:44

11 A Yes.

12 Q And based on your description in
13 paragraph 34, I understand the picture below to be a
14 result of a search of Ancestry site as opposed to an
15 e-mail. 02:04:04

16 Is that consistent with your understanding?

17 A Correct.

18 Q So returning to my earlier question, do you
19 have an understanding when you say in paragraph 7
20 that Ancestry sends promotional e-mails, whether 02:04:25
21 your name or likeness has been included in what
22 you're referencing there as a promotional e-mail?

23 MR. STRAUSS: Object to the form of the
24 question.

25 You may answer it, Mr. Wilson. 02:04:40

1 THE DEPONENT: No, I do not know.

2 BY MR. BAUMANN:

3 Q And then in -- returning to paragraph 7, in
4 addition to promotional e-mails, you reference (as
5 read):

02:04:53

6 "On-site messages sent by
7 Ancestry."

8 Do you see that?

9 A Yes.

10 Q And do you know whether your name or likeness 02:05:04
11 has ever been included it in an on-site message by
12 Ancestry?

13 MR. STRAUSS: Object to the form of the
14 question.

15 You may answer it. 02:05:15

16 THE DEPONENT: I -- I have no clue.

17 BY MR. BAUMANN:

18 Q And do you know -- do you know what you're
19 referencing here as an "on-site message," what --
20 what that entails? 02:05:30

21 A An on-site message would be like the pictures
22 presented in the complaint on 34, with my name,
23 address, telephone number -- not telephone number --
24 age.

25 Q So those would be -- the on-site messages 02:05:44

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1 in this Tahitian protest, they aren't famous as far
2 as I know, right?

3 A Correct.

4 Q But you'd agree that sometimes ordinary
5 non-famous people can be -- can be newsworthy 02:27:30
6 depending on the circumstances that they're in,
7 correct?

8 MR. STRAUSS: Object to the form of the
9 question.

10 You may answer it, Mr. Wilson. 02:27:42

11 THE DEPONENT: Correct.

12 BY MR. BAUMANN:

13 Q I think you said -- and we can step away from
14 Exhibit 3.

15 I think you said, Mr. Wilson, that your high 02:27:55
16 school sold yearbooks. It didn't just give them
17 away for free; is that right?

18 A Correct.

19 Q And did you ever object that your high school
20 was selling copies of the yearbook in which you 02:28:10
21 appeared?

22 A I doubt I did. I was a teenager.

23 Q And do you remember what types of information
24 your high school yearbooks included about you?

25 A I don't remember. It's been too long. 02:28:34

1 Q Did your high school pay you to be featured
2 in the high school yearbook?

3 A No.

4 Q When you -- when you were depicted in the
5 Morgan High School yearbooks, you understood that 02:29:03
6 others who received those yearbooks would get to see
7 the information that was in there, including your
8 information, right?

9 A I guess I didn't really know I was in the
10 yearbook until this all happened. So maybe other 02:29:21
11 than my senior picture or something.

12 Q When you were in high school or thereafter,
13 did you have reason to believe that you wouldn't be
14 featured in the Morgan High School yearbooks?

15 A As a teenager, I really didn't give a crap 02:29:37
16 back then.

17 Q You didn't give it too much thought, I take
18 it?

19 A No.

20 Q But sort of generally speaking, in your 02:29:47
21 understanding of yearbooks, it was that whatever
22 information is included in there, whoever gets the
23 yearbook can see that information, right?

24 A Correct.

25 Q And I'm assuming that you had an 02:30:12

1 understanding that even though you didn't buy your
2 yearbook, other folks at your high school would have
3 purchased copies of the high school yearbook, right?

4 A Correct.

5 Q And did you know anyone that you recall 02:30:24
6 having purchased a copy of the high school yearbook?

7 A I mean, I can't really say. I mean, I
8 remember kids carrying them around, but I can't
9 really say I remember who had them.

10 Q It's been a while, so I can understand. 02:30:38
11 Do you know what your high school classmates
12 did with their yearbooks after they received them?

13 A No.

14 Q Did you try to put any sort of restriction on
15 what your classmates could do with their -- the high 02:30:56
16 school yearbooks in which you appeared?

17 MR. STRAUSS: Object to the form of the
18 question.

19 You may answer it, Mr. Wilson.

20 THE DEPONENT: Well, like I said, I was a 02:31:08
21 teenager. I probably had a lot of other stuff on my
22 mind.

23 BY MR. BAUMANN:

24 Q And in between, you know, your graduation
25 from high school and the present day, have you ever 02:31:15

1 tried to go back and put any sort of restrictions on
2 what your classmates might do with their yearbooks?

3 MR. STRAUSS: Same objection.

4 You may answer it, Mr. Wilson.

5 THE DEPONENT: No, I never thought I'd have 02:31:31
6 to worry about it.

7 BY MR. BAUMANN:

8 Q Your classmates who purchased copies of your
9 high school yearbook, they might have since shared
10 them with other folks, correct? 02:31:47

11 MR. STRAUSS: Object to the form of the
12 question.

13 You may answer it, Mr. Wilson.

14 THE DEPONENT: Correct.

15 BY MR. BAUMANN: 02:31:56

16 Q And, in fact, they could have been the ones
17 that shared the yearbooks with Ancestry; is that
18 correct?

19 MR. STRAUSS: Object to the form of the
20 question. 02:32:08

21 You may answer it.

22 THE DEPONENT: I mean, hypothetically, yeah,
23 they could have. I haven't a clue.

24 BY MR. BAUMANN:

25 Q Do you know -- do you know whether any of 02:32:29

1 your high school classmates might have donated their
2 yearbooks to, let's say, a library?

3	A	No.
---	---	-----

4 Q And in your understanding, do you know
5 whether libraries sometimes make available copies of 02:32:45
6 yearbooks?

7 A I don't know one way or another.

8 Q Do you know whether, for example, government
9 archives sometimes keep copies of high school
10 yearbooks? 02:33:05

11 MR. STRAUSS: Object to the form of the
12 question.

13 You may answer it, Mr. Wilson.

14 THE DEPONENT: I guess, no, I don't -- I'm
15 almost 100 percent sure ours don't. So. 02:33:14

16 BY MR. BAUMANN:

17 Q If -- if a public library were to have copies
18 of your old Morgan High School yearbooks, is that
19 something you'd object to?

20 MR. STRAUSS: Object to the form of the 02:33:33

21 question.

22 You may answer it.

23	THE DEPONENT: No.
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24 BY MR. BAUMANN:

25	0	And why not?	02:33:38
----	---	--------------	----------

1 A I mean, they're not really putting my
2 information out there on to the world, but we don't
3 really have a local library, per se, that has that
4 stuff.

5 Q Well, if -- if we assume a, you know, a 02:33:59
6 public library had the yearbook, somebody interested
7 in John Wilson could conceivably go and look up your
8 old high school yearbook information, right?

9 A Correct.

10 Q But that's not something that you object to? 02:34:16

11 MR. STRAUSS: Object to the form of the
12 question.

13 You may answer it, Mr. Wilson.

14 THE DEPONENT: No.

15 BY MR. BAUMANN: 02:34:28

16 Q Have you ever tried to sell or license, well,
17 any old yearbooks that -- or yearbook pages on which
18 you're featured?

19 A No.

20 Q So do you know -- I assume you don't know 02:35:08
21 then one way or the other whether someone might be
22 willing to buy your old high school yearbooks?

23 MR. STRAUSS: Object to the form of the
24 question.

25 You may answer it. 02:35:20

1 THE DEPONENT: No.

2 BY MR. BAUMANN:

3 Q Looking beyond the yearbooks, have you ever
4 tried to sell or license your name?

5 A No. 02:35:36

6 Q Or have you ever tried to sell or license
7 your -- your likeness, a photograph of yourself?

8 A No.

9 Q And why not?

10 A Never had a need to. 02:35:49

11 Q Do you know whether -- well, I guess, has
12 anyone ever paid you to use your name or likeness?

13 A Absolutely not.

14 Q Do you have any plans to try to sell your
15 name or likeness? 02:36:11

16 A No.

17 Q Since you -- I guess, since you haven't tried
18 to sell or license your name or likeness, I assume
19 you don't know one way or the other whether anyone
20 has been willing to pay you for use of your name or 02:36:26
21 likeness?

22 MR. STRAUSS: Object to the form of the
23 question.

24 You may answer it, Mr. Wilson.

25 THE DEPONENT: Correct. 02:36:34

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1 BY MR. BAUMANN:

2 Q Mr. Wilson, in this lawsuit, do you contend
3 that you've been injured by Ancestry's conduct that
4 you're challenging?

5 A No. 02:37:05

6 Q I know we saw when we were looking at the
7 complaint some instances, screenshots of your name
8 and yearbook photograph.

9 So I assume the answer is yes, but do you
10 know whether your name or likeness has ever appeared 02:37:39
11 on Ancestry's website?

12 A Yes.

13 Q And is that information that you know from
14 Mr. Strauss and your other attorneys in this matter?

15 MR. STRAUSS: So, Mr. Wilson, I'm going to 02:37:57
16 advise you not to disclose the content of any
17 attorney-client privileged communication.

18 That said, I think that the fact -- I think
19 you can answer this question, but I want to just
20 sort of advise you as to the parameters as to the 02:38:09
21 attorney-client privilege.

22 Does that make sense to you, Mr. Wilson?

23 THE DEPONENT: Yes.

24 MR. STRAUSS: Okay.

25 And is that the answer to your question? 02:38:21

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1 I, the undersigned, a Certified Shorthand
2 Reporter of the State of California, Registered
3 Professional Reporter, Certified Live Note Reporter,
4 do hereby certify:

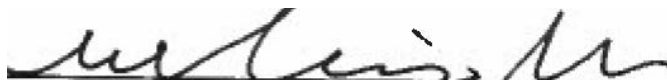
5 That the foregoing proceedings were taken
6 before me at the time and place herein set forth;
7 that any witnesses in the foregoing proceedings,
8 prior to testifying, were duly sworn; that a record
9 of the proceedings was made by me using machine
10 shorthand which was thereafter transcribed under my
11 direction; that the foregoing transcript is a true
12 record of the testimony given.

13 Further, that if the foregoing pertains to
14 the original transcript of a deposition in a Federal
15 Case, before completion of the proceedings, review
16 of the transcript ☐ was ☒ was not requested.

17 I further certify I am neither financially
18 interested in the action nor a relative or employee
19 of any attorney or party to this action.

20 IN WITNESS WHEREOF, I have this date
21 subscribed my name.

22 Dated: November 30, 2023

23
24 

MELISSA M. VILLAGRAN

25 CSR No. 12543 RPR